

ARTICLE XVIII. HISTORIC PRESERVATION COMMISSION*

*Note --See the editor's note at Art. XIII.

Cross reference(s)--Administration, Ch. 2; tenure of members of boards and commissions, § 2-1.

State law reference(s)--Historic preservation commission, G.S. 160A-400.7 et seq.

Section 18.01. Purpose.

The historical heritage of our City is one of our most valued and important assets. The conservation of and preservation of historic districts and landmarks stabilize and increase property values in their areas and strengthen the overall economy of the City. The purpose of establishing local historic districts and landmarks is to encourage the restoration, preservation, rehabilitation and conservation of historically, architecturally, and archaeologically significant areas, structures, buildings, sites, objects and their surroundings, and to review new construction design to ensure compatibility with the character of the district and to safeguard against any potentially adverse influences which may cause the decline, decay, or total destruction of these important assets. In addition, the preservation of historic districts and landmarks provides for the education, pleasure and enrichment of the residents of Salisbury and the State as a whole.

Section 18.02. Historic District and Landmark Establishment.

Historic districts and landmarks are established through the application of an overlay district which are zoning districts that are applied only in conjunction with other zoning districts, and may grant additional use or development requirements upon the underlying zoning controlling the use and development of a lot to ensure the compatibility and appropriateness of exterior design within the historic district or for the landmark.

Overlay districts can be applied to any zoning districts and the boundaries of such overlay shall be shown on the official zoning map of the City of Salisbury. (i.e. **‘H’** overlay also referred to as **‘Historic District’**) An overlay district can be initiated as an amendment by City Council, Planning Board, Historic Preservation Commission, or a property owner.

Section 18.03. Designation of Historic Districts.

The City Council may adopt, amend, reject, or repeal ordinances designating historic districts when adoption or amendment is pursuant to the following procedure:

- (1) An investigation and report describing the historical, architectural, or archaeological significance of the buildings, structures, features, sites or surroundings included in any such proposed district, and the description of the boundaries of such district has been prepared, and
- (2) The North Carolina Department of Cultural Resources, acting through the State Historic Preservation Officer or his or her designee, shall make an analysis of and recommendations concerning such report and description of proposed boundaries. Failure of the department to submit its written analysis and recommendations to the City Council within thirty (30) calendar days after a written request for such analysis has been received by the Department of Cultural resources shall relieve the City of any

responsibility for awaiting such analysis, and the City Council may at any time thereafter take any necessary action to adopt or amend its zoning ordinance.

- (3) Historic districts shall consist of areas which are deemed to be of special significance in terms of their history, prehistory, architecture and/or culture, and to possess integrity of design, setting, materials, feeling, and association. The area, buildings, structures, sites, or objects shall be significant elements of cultural, social, economic, political, or architectural history of the City or of the archaeological history or prehistory of the City. The conservation of such a district will provide for the education, pleasure and enhancement of the quality of life of all residents of the City.
- (4) The City Council shall designate the boundaries of a historic district in accordance with the procedures set forth in Article 18, Section 18.01, Amendment Procedures.
- (5) Following the City Council designation and approval of a historic district, the area so designated shall be labeled 'H' on the official zoning map.
- (6) With respect to any changes in the boundaries of such district subsequent to its initial establishment or the creation of additional districts within the City, the investigative studies and reports shall be prepared by the Historic Preservation Commission and shall be referred to the Planning Board for its review and comment. Changes in the boundaries of an initial district or proposals for additional districts shall also be submitted to the Department of Cultural Resources in accordance with the provisions as stated in 17.03(2) above.

Section 18.04. Designation of Landmarks.

The City Council may adopt, amend, reject, or repeal ordinances designating historic landmarks that meet the following criteria, when those ordinances contain the following elements and when adoption or amendment is pursuant to the following procedure:

- (a) Criteria for designation:

No building, structure, site, area, or object shall be recommended for designation as an historic landmark unless it is deemed and found by the Historic Preservation Commission to be of special significance in terms of its historical, prehistorical, architectural, archaeological, and for cultural importance, and to possess integrity of design, setting, workmanship, materials, feeling and/or association.

- (b) Elements of ordinances designating historic landmarks:

Ordinances designating historic landmarks shall contain the following elements which shall:

- (1) Describe each property designated in the ordinance, including the approximate area of the property so designated.
- (2) List the name or names of the owner or owners of the property.
- (3) Describe those elements of the property that are integral to its historical, prehistorical, architectural, archaeological and/or cultural significance.
- (4) Describe the nature of the commission's jurisdiction over the interior, if any, and those interior features of the property to be reviewed for certificates of appropriateness if they are to be changed.

(5) Require, for each building, structure, site, area, or object designated as an historic landmark that the waiting period set forth in the general statutes be observed prior to its demolition.

(6) Recite any other information the City Council deems necessary within the authority conferred by the General Statutes.

(c) Procedure for adopting or amending historic landmark ordinances:

Ordinances designating historic landmarks shall be adopted and amended according to the following procedure:

(1) The Historic Preservation Commission shall make, or cause to be made, an investigation and report on the historical, prehistorical, architectural, archaeological and/or cultural significance of each building, structure, site, area, or object proposed for designation. Applications prepared by owners will be judged by the same criteria as those prepared by the Commission. Such reports shall contain the following information:

- a. The name of the property to be considered for designation-both common and historic names, if they can be determined.
- b. The name and address of the current property owner.
- c. The location of the property proposed to be designated historic, including the street address and tax map and parcel numbers.
- d. The date of construction and of any later alterations, if any.
- e. An assessment of the significance of the site or structure pursuant to Section 17.04(a).
- f. An architectural or archaeological description of the area of the site or structure proposed to be designated. If outbuildings or other appurtenant features are proposed to be designated, the report shall contain a description of those features.
- g. An historical discussion of the site or structure within its type, period, and locality.
- h. Black and white photographs and color slides that clearly depict the property proposed to be designated, including views of all facades, pertinent details and siting.
- i. A map showing the location of the property, including any outbuildings and appurtenant features.
- j. A clear description of the boundaries.

(2) The commission shall forward its recommendation to the City Council. The Commission shall refer the report to the State Department of Cultural Resources, Division of Archives and History.

(3) The Department of Cultural Resources, acting through the State historic preservation officer or his or her designee, may make an analysis of and

recommendations concerning the report. If the department does not submit its written comments or recommendations in connection with any proposed designation within thirty (30) calendar days after a written request for such analysis has been received by the department, the Commission and the City Council shall be relieved of any responsibility to consider such comments.

- (4) The Historic Preservation Commission and the City Council shall each hold a public hearing on the proposed ordinance. Notice of the hearings shall be published at least once in a newspaper generally circulated within the City. Written notice of the hearings shall also be mailed by the Preservation Commission to all owners and occupants of properties whose identity and current mailing address can be ascertained by the exercise of reasonable diligence. All such notices shall be published or mailed not less than ten (10) nor more than twenty-five (25) days prior to the date set for the public hearing. The mailed notices in this subsection are for the convenience of property owners and occupants and any defect or their omission therein shall not impair the validity of the public hearing or any action following therefrom.
- (5) Following the public hearings, the City Council may adopt the ordinance as proposed, adopt the ordinance with any amendments it deems necessary, or reject the proposed ordinance.
- (6) Upon adoption of the ordinance or any amendments thereto, the owners and occupants of each designated historic property shall be given written notification of such designation insofar as reasonable diligence permits. One (1) copy of the ordinance and each amendment thereto shall be filed by the Historic Preservation Commission in the office of the County Register of Deeds. Each historic property designated as an historic landmark in the ordinance shall be indexed according to the name of the owner of the property in the grantee and grantor indexes in the Register of Deeds office, and the Historic Preservation Commission shall pay a reasonable fee for filing and indexing. A second copy of the ordinance and of each amendment thereto shall be kept on file in the City Clerk's office and shall be made available for public inspection at any reasonable time. A third copy of the ordinance and each amendment thereto shall be given to the County Building Inspector.
- (7) Upon adoption of the ordinance or any amendments thereto, it shall be the duty of the Historic Preservation Commission to give notice thereof to the County tax assessor. The designation and any recorded restrictions upon the property limiting its use for preservation purposes shall be considered by the assessor in appraising it for tax purposes. The fact that a building, structure, site, area, or object has been designated an historic landmark shall be clearly indicated on all tax maps maintained by the County for such period as the designation remains in effect.

Section 18.05. Jurisdiction of historic preservation commission.

There is hereby established a commission which shall be known as the Salisbury Historic Preservation Commission. Its jurisdiction shall include the City of Salisbury and the extraterritorial jurisdiction area of the city as shown on the official zoning map and atlas of the city.

Section 18.06. Number of members, method of appointment, composition of commission, criteria for appointment, term of office, reimbursement.

The commission shall be a nine-member commission appointed by the City Council. A majority of the members of the commission shall have demonstrated special interest, experience or education in history, architecture, archaeology or related fields; and all the members shall reside within the territorial

jurisdiction of the City of Salisbury, the limits of which are shown on the official zoning map or atlas of the City of Salisbury, North Carolina.

Members shall be appointed for three-year staggered terms. A member may be reappointed for a second consecutive term, but after two (2) consecutive terms a member shall be ineligible for reappointment until one (1) calendar year has elapsed from the date of the termination of his or her second term. In the case of a vacancy occurring during a term, such vacancy shall be filled for the unexpired portion of such term.

The commission shall serve without compensation except that they be reimbursed for actual expenses incident to the performance of their duties within the limits of any funds available to the commission.

Section 18.07. Rules of procedure, design guidelines and meetings.

The historic preservation commission shall develop and adopt rules of procedure which shall govern the conduct of its business in accordance with the provisions of this ordinance. Such rules of procedure shall also include as an appendix 'The Secretary of the Interior's Standards for Rehabilitation & Illustrated Guidelines for Rehabilitating Historic Buildings' and the 'Historic District Design Guidelines' including photographs, illustrations, descriptions and other similar material interpreting the criteria for determining appropriateness. The design guidelines shall be placed on file in the Salisbury city offices and made available to the general public during the regular city office business hours.

Specific provisions shall be made in the commission's rules of procedure for commission meetings following the filing of a proposal on which the commission is required to pass. Such specific provisions shall be made in order that a proposal be brought before the commission:

- (a) Within a reasonable time;
- (b) In a manner which is conducive to commission consideration; and
- (c) In a manner which will facilitate commission action.

The commission shall meet at regularly scheduled times and at such other times as the commission may determine or at the call of its chairman as provided for in its rules of procedure.

Section 18.08. Powers and duties.

The powers of the Historic Preservation Commission shall be to:

- (1) Receive applications for certificates of appropriateness as required under section 17.09. The commission shall review such application according to the criteria to determine appropriateness, provided in section 17.10, along with the design guidelines and the guidelines of the secretary of the interior, and shall approve or disapprove such application as provided in section 17.13, paragraph (4).
- (2) Recommend to the City Council districts or areas to be designated by ordinance as historic overlay districts, and recommend individual structures, buildings, sites, areas, or objects to be designated by ordinance as an historic landmark.

(3) Recommend to the City Council that designation of any area as an historic overlay district or part thereof be revoked or removed for cause and recommend that designation of individual structures, buildings, sites, areas, or objects as historic landmarks be revoked for cause.

The Salisbury Historic Preservation Commission shall exercise such other powers and perform such other duties or activities as are required elsewhere by the Salisbury Zoning Ordinance or the General Statutes of North Carolina or as assigned by the Salisbury City Council.

Section 18.09. Certificates of appropriateness required.

(1) No exterior portion of any building or other structure (including masonry, walls, fences, light fixtures, steps and pavement, or other appurtenant features) nor above-ground utility structure nor any type of outdoor advertising sign nor any tree larger than **18 inches** in diameter at 4½ feet above the ground shall be erected, altered, restored, moved or demolished on a landmark, or within the historic district ‘**H**’, until after an application for a certificate of appropriateness as to exterior features has been submitted to and approved by the Historic Preservation Commission. However, in the case where a tree may be diseased or severely damaged, it can be removed and shall be replaced with a similar type plant material contained on the plant list of the Design Guidelines with a minor works approval. In addition, nothing in this section would prevent the removal of a tree that is an immediate danger to life or property.

Exterior features shall include the architectural style, general design and general arrangement of the exterior of a building or other structure, including the color, the kind and texture of the building material, the size and scale of the building and the type and style of all windows, doors, light fixtures, signs and other appurtenant fixtures. In the case of outdoor advertising signs, exterior features shall be construed to mean the style, material, size and location of all such signs.

(2) Such a certificate shall be issued by the commission prior to the issuance of a zoning permit or other permit granted for purposes of constructing, altering, moving or demolishing structures. A certificate of appropriateness shall be required whether or not a zoning permit is required. Therefore, a certificate of appropriateness is a prerequisite to the issuance of such a zoning permit or such other permits. Any such zoning permits or such other permits not issued in conformity with this section shall be invalid.

(3) The State of North Carolina, the City of Salisbury and all public utility companies shall be required to obtain a certificate of appropriateness for landmarks and in the historic district ‘**H**’ prior to initiating any changes in the character of street paving, sidewalks, utility installations, lighting, walls, fences, structures and buildings on property, easements or streets owned or franchised by the State of North Carolina, the City of Salisbury or public utility companies.

Examples of specific items which fall under ordinary maintenance or repair that will not require a certificate of appropriateness are:

- (a) Underground utilities, except where archaeological finds or sites are uncovered;
- (b) Extension or upgrading of service to customers for equipment such as meters, valves and cleanouts;
- (c) Changes in type or amount of mechanical equipment such as interfaces, transformers or traffic-control devices on existing overhead lines, poles or ground-mounted installations;
- (d) Deletion or replacement of poles of standard material and height, not to exceed forty-five (45) feet;
- (e) Addition or deletion of fire hydrants;

- (f) Routine replacement of street signs;
- (g) Any upgrading of facilities to comply with National Electrical Safety Code (NESC) requirements;
- (h) Addition of equipment on existing lines or poles;
- (i) Replacement of existing overhead lines, poles or ground-mounted installation.

Section 18.10. Criteria to determine appropriateness.

The following review criteria, along with companion design guidelines found and the guidelines of the secretary of the interior, shall be considered, where relevant, to make findings of fact indicating the extent to which the application for a certificate of appropriateness is or is not congruous with the historic aspects of the designated landmark or district:

- (a) Building height.
- (b) Walls.
- (c) Proportion of width to height of the total building facade.
- (d) Proportion, shape, positioning, location, pattern and sizes of any elements of fenestration.
- (e) Spacing of buildings, defined as the distance between adjacent buildings.
- (f) Building materials.
- (g) Surface textures.
- (h) Color.
- (i) Expression of architectural detailing.
- (j) Roof shapes.
- (k) Scale.
- (l) Orientation of the building to the street.
- (m) Ground cover or paving.
- (n) Signs.
- (o) Exterior lighting and appurtenant features.

The commission shall adopt principles and guidelines interpreting these criteria for new construction, alterations, additions, moving and demolition of landmarks or properties in the historic district 'H'.

Section 18.10.1 Historic District Design Guidelines

(a) Purpose.

Salisbury's Historic District Design Guidelines, based on the Secretary of Interior's Standards for Rehabilitation and the Criteria to Determine Appropriateness outlined in Section 18.10, are

used by the Historic Preservation Commission in reviewing proposed exterior changes within local historic districts. These local historic districts are identified on the Zoning Map of the City of Salisbury as having an H, or historic district, overlay.

(b) Application.

Salisbury's Historic District Design Guidelines are divided into two sections. A-Residential Guidelines, and B -Nonresidential Guidelines. As outlined in the Design Guidelines introduction and allowed by NC General Statute 160A-382, the guidelines would be applied to the specific building type rather than the use. However, in the case of a residential building type that has been converted into a non-residential use, the site features guidelines for non-residential would be applied.

(c) Applicability.

The provisions of the Historic District Design Guidelines as adopted by City Council on October 2, 2001 and as amended from time to time shall apply to all certificate of appropriateness requests as required by Section 18.09.

(Ord.No.2001-76)

Section 18.11. Demolition.

- (1) An application for a certificate of appropriateness authorizing the relocation, demolition or destruction of a designated landmark or a building, structure or site within historic district '**H**' may not be denied except as provided in paragraph (2) below. However, the effective date of such a certificate may be delayed for a period of up to three hundred sixty-five (365) days from the date of approval. The maximum period of delay authorized by this section shall be reduced by the commission where it finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use of or return from such property by virtue of the delay. During such period the commission shall negotiate with the owner and with any other parties in an effort to find a means of preserving the building or site.
- (2) An application for a certificate of appropriateness authorizing the demolition or destruction of a building, site or structure determined by the state historic preservation officer as having statewide significance as defined in the criteria of the National Register of Historic Places may be denied except where:
 - (a) The commission finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use or return by virtue of the denial; or
 - (b) The city has adopted a demolition ordinance under the minimum housing code.
- (3) If the commission has voted to recommend designation of a property as a landmark or designation of an area as a district, and final designation has not been made by the City Council, the demolition or destruction of any building, site or structure located on the property of the proposed landmark or in the proposed district may be delayed by the commission for a period of up to one hundred eighty (180) days or until the city council takes final action on the designation, whichever comes first.

(Ord.No.2001-76)

Section 18.12. Land use, interior arrangement, maintenance, emergency repairs not considered.

- (1) Nothing herein shall be construed to prevent a property owner from making any use of his or her property not prohibited by other statutes, ordinances or regulations.

- (2) The commission may enter, solely in performance of its official duties and only at reasonable times, upon private lands for examination or survey thereof. However, no member, employee, or agent of the commission may enter any private building or structure without express consent of the owner or occupant thereof.
- (3) Except as provided in paragraph (4) below, the commission shall have no jurisdiction over interior arrangement and shall take no action except to prevent the construction, reconstruction, alteration, restoration, moving or demolition of buildings, structures, appurtenant features, outdoor advertising signs, or other significant features which would be incongruous with the special character of a landmark or of the district.
- (4) Notwithstanding paragraph (3) above, the jurisdiction of the commission over interior spaces shall be limited to specific interior features of architectural, artistic or historical significance in publicly owned designated landmarks; and of privately owned historic landmarks for which consent for interior review has been given by the owner. Said consent of any owner for interior review shall bind future owners and/or successors in title, provided such consent has been filed in the office of the register of deeds and indexed accordingly to the name of the owner of the property in the grantee and grantor indexes. The landmark designation shall specify the interior features to be reviewed and the specific nature of the commission's jurisdiction over the interior.
- (5) The ordinary maintenance or repair of any exterior architectural feature of a landmark, or in the historic district 'H' which does not involve a change in design, material, color or outer appearance thereof, shall not be prevented by the requirements pertaining to the designated landmark or historic district.
- (6) Nothing in this article shall be construed to prevent (a) the maintenance or (b) in the event of an emergency, the immediate restoration of any existing above-ground utility structure without approval by the commission.
- (7) The construction, reconstruction, alteration, restoration, moving or demolition of any exterior architectural features, which the city code inspector or similar official shall certify is required for public safety because of an unsafe or dangerous condition, shall not be prevented by the requirements pertaining to the landmark, or the historic district 'H'.

(Ord.No.2001-76)

Section 18.13. Hearing procedures.

- (1) The historic preservation commission shall receive applications for certificates of appropriateness as required under section 17.09. The commission shall review such application according to the review criteria, the design guidelines and the Secretary of the Interior's Standards for Rehabilitation & Illustrated Guidelines for Rehabilitating Historic Buildings and shall approve or disapprove such application as provided in paragraph (4) of this section.
- (2) Prior to issuance or denial of a certificate of appropriateness, the commission shall take such action as may reasonably be required to inform the owners of any property likely to be materially affected by the application and shall give the applicant and such owners an opportunity to be heard. A written notice of the proposal shall be sent to the applicant and to owners of property (i.e., lots, parcels or tracts of land) within one hundred (100) feet of the property for which an application for a certificate of appropriateness has been applied for.
- (3) In cases where the commission deems it necessary, it may hold a public hearing concerning an application for a certificate of appropriateness.
- (4) The historic preservation commission's final action on an application for a certificate of appropriateness shall be by the passage of a motion to take one (1) of the following actions:

- (a) Approve the application for a certificate of appropriateness as proposed;
 - (b) Approve the application for a certificate of appropriateness subject to specific conditions and/or modifications of the proposal presented in the application for a certificate of appropriateness;
 - (c) Disapprove the application for a certificate of appropriateness as proposed or modified.
- (5) An appeal of the commission's action in granting or denying any certificate may be taken to the zoning board of adjustment (a) by any aggrieved party, (b) shall be taken within times prescribed by the historic preservation commission by general rule, and (c) shall be in the nature of certiorari.

Section 18.14. Minor works.

A certificate of appropriateness application, when determined to involve a minor work may be reviewed and approved by the minor works committee. The minor works committee consists of the historic preservation commission chairman and vice-chairman and the zoning administrator.

Minor works are defined as those exterior changes that do not involve substantial alterations, additions or removals that could impair the integrity of the landmark or property in the historic district 'H'.

An application may receive a certificate of appropriateness from the committee if it falls under one of the following categories of minor works provided in the Historic Preservation Commission Rules of Procedure. If the committee does not issue a certificate of appropriateness, the applicant will be advised to make a formal application to the historic preservation commission. No application may be denied without formal action by the historic preservation commission.

If the committee does not issue a certificate of appropriateness, the applicant will be advised to make a formal application to the historic preservation commission. No application may be denied without formal action by the historic preservation commission.

(Ord.No.2001-76)

Section 18.15. Certificate issuance; expiration; enforcement.

- (1) Passage of a motion to approve, with or without modification, an application shall constitute the issuance of a certificate of appropriateness by the historic preservation commission. The application and the duly approved minutes of the commission shall constitute the written documentation of such issuances. Following the meeting a certificate shall be mailed to the property for which a certificate has been issued. The certificate shall be posted on the premises, in a location visible from the street, while the work is in progress. Minutes of a historic preservation commission meeting shall be approved before the end of the next meeting.
- (2) A certificate of appropriateness shall be valid for a period of six (6) months from the date of issuance for the purpose of obtaining a zoning permit or other permit for constructing or altering structures. A certificate of appropriateness shall expire six (6) months after the date of issuance if the work authorized by the certificate has not been commenced. If after commencement the work is discontinued for a period of six (6) months, the permit therefor shall immediately expire.
- (3) Compliance with certificates of appropriateness shall be enforced by the zoning administrator. Failure to comply with a certificate of appropriateness shall be a violation of the zoning ordinance. The enforcement of any remedy provided herein shall not prevent the enforcement of any other remedy or remedies provided herein or in other ordinances or laws.

- (4) In case any building, structure, site, area or object designated as a landmark or located within the historic district ‘H’ is about to be demolished whether as a result of deliberate neglect or otherwise, materially altered, remodeled, removed or destroyed, except in compliance with the ordinance, the commission or other party aggrieved by such action may institute any appropriate action or proceeding to prevent such unlawful action.

(Ord.No.2001-76)

Section 18.16. Conditions for certain approvals.

- (1) In the event that the commission, in considering an application for a certificate of appropriateness, shall find that a building or structure for which a zoning permit is requested is to be an authentic restoration or reconstruction of a building or structure which existed at the same location but does not meet zoning requirements, said building or structure may be authorized to be restored or reconstructed at the same location where the original building or structure was located, provided the zoning board of adjustment authorizes such as a special exception and no use other than that permitted in the district in which such is located is made of said property. Such conditions as may be attached to the historic preservation commission approval and those conditions as may be set by the zoning board of adjustment shall be included in any certificate of appropriateness related thereto.
- (2) If the commission finds that an application for a certificate of appropriateness concerning any porches, steps, posts, fences, walls or other items extending over, on or within public rights-of-way to be necessary for the authentic restoration, reconstruction or maintenance thereof, and will not impede or block pedestrian traffic or constitute a hazard to public safety, such findings shall be transmitted to City Council for its consideration in authorizing or denying such encroachments into rights-of-way.

If the Council authorizes such encroachment, any items restored, reconstructed or maintained on, over or within a public right-of-way shall be the responsibility of the owner, and the owner shall agree to protect and hold the City of Salisbury blameless against any and all liability, cost damage or expense suffered as a result of the restoration, reconstruction or maintenance thereof. The lowest point of any such item projecting over any sidewalk shall be at least nine (9) feet above the sidewalk immediately below.

(Ord.No.2001-76)